

**RONNIE D. WILSON**  
ATTORNEY & COUNSELOR AT LAW  
1211 CHASE BANK CENTER  
RICHARDSON, TEXAS 75080  
(972) 699-0041  
TELECOPIER (972) 699-0064  
November 5, 2001

DOCKET FILE COPY ORIGINAL

RECEIVED  
NOV 7 2001  
FCC MAIL ROOM

**VIA FEDERAL EXPRESS**  
**809928076869**

Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street S. W.  
Washington, D.C. 20554

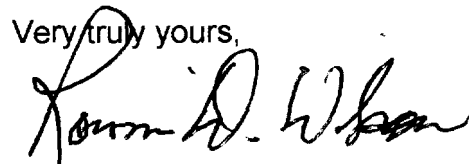
Re: **In the Matter of Ronald Brasher, et al;**  
**EB Docket No.: 00-156 before the Federal Communications**  
**Commission**

Dear Secretary:

Please find enclosed an original and seven (7) copies of the Reply on behalf of David and Diane Brasher in the above-referenced matter. Please return a file-stamped copy to me in the enclosed self-addressed envelope.

All parties and the Honorable Judge Steinberg are being served with copies of same via Federal Express on this date.

Very truly yours,



Ronnie D. Wilson  
Attorney for David and Diane Brasher

RDW:ep  
Enclosures

cc: David and Diane Brasher (w/encl.)

No. of Copies rec'd  
List A B C D E

016

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

RECEIVED  
NOV 7 2001  
FCC MAIL ROOM

In the Matter of

Ronald Brasher  
Licensee of Private Land Mobile Stations  
WPLQ202, KCG967, WPLD495, WPKH771  
WPK1739, WPK1733, WPK1707, WIL990  
WPLZ533, WPK1762, AND WPDU262  
Dallas/Fort Worth, Texas

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

EB DOCKET NO. 00-156

Et al.

To: Administrative Law Judge  
Hon. Arthur I. Steinberg

REPLY

David and Diane Brasher

By: Ronnie D. Wilson, Esq.  
100 N. Central Expressway  
Suite 1211  
Richardson, Texas 75080  
Telephone: 972/699-0041  
Facsimile: 972/699-0064

Their Counsel

Dated: November 5th, 2001

## **TABLE OF CONTENTS**

Introduction.....	1
Reply to Certain EB's Proposed Fact Findings.....	1
Reply to Certain EB's Proposed Conclusions.....	5
Conclusion.....	8

I.

**INTRODUCTION**

1. David and Diane Brasher, by their attorney, and pursuant to the revised procedural schedule in this case, hereby respectfully submit their Reply to the "Proposed Findings of Fact and Conclusions of Law" filed by the FCC's Enforcement Bureau (hereinafter "EB") on September 14, 2001, as to the issues in this case that apply to them.
2. As will be discussed below, the arguments submitted by the EB concerning David and Diane ignore: (1) the vast amount of evidence adduced at the hearing which exonerates David and Diane from any violations, and (2) the complete lack of direct evidence in the record of any violations by David and Diane. The EB instead relies on "smoke and mirrors" and innuendo and mischaracterizes same as circumstantial evidence that contravenes any reasonable and rational interpretation of the record evidence. The EB has attacked the credibility of David using a twisted interpretation of his testimony that is clearly without good and sound basis and contrary to the record evidence.

II.

**REPLY TO CERTAIN EB'S PROPOSED FACT FINDINGS**

3. EB's Paragraph 16: It is inconceivable how the EB can place a sinister meaning on David's testimony that in June of 1996 there was a need for more

spectrum for DLB (TR. 1016).

4. EB's Paragraph 17: The EB again via innuendo places a sinister meaning on David's testimony that, based on the professional advice that Ron got there was a limit to the number of licenses that DLB could obtain in 1996. The EB has cited no record evidence that David knew about this limit in 1996.
5. EB's Paragraph 21: Yes, we concede that David knew that his grandfather, O.C. Brasher died on August 17, 1995. However, this evidence does not provide any nexus to David taking any part in the filing of a license application in O.C. Brasher's name. This is clearly not direct or circumstantial record evidence of David having any part in this activity, just "smoke and mirrors" and innuendo by the EB.
6. EB's Paragraph 37: Here the EB mischaracterizes Diane's current position at DLB as its primary financial officer without any record evidence as a basis for stating same. There is no record evidence that can be reasonably and rationally interpreted to support this statement. Diane does prepare and sign checks currently for DLB but she is not a financial officer of DLB, she is the corporate secretary. Further, the EB misstates the testimony of David regarding the Sumpters receipt of financial information from DLB (citing TR. 987-88). There is not one word of Jim Sumpter's withdrawal as DLB's accountant in David's cited testimony. David simply said that currently the Sumpters don't receive it.
7. EB Paragraph 47: David's testimony citing his and Diane's marital problems in 1996 as the reason for using the name D. L. Brasher with an address

different than his home address is very understandable. It had nothing to do with an attempt to deceive the FCC. It had everything to do with an individual going through martial problems and a misconceived attempt to protect property. Obviously, the authors of the EB statements have never been through martial problems and the not so reasonable and rationale thinking that goes on when one is in the midst of the storm.

8. EB Paragraph 48: Here again the EB is totally disregarding David's very understandable explanation of the use of the name D. L. Brasher. The EB, without any record evidence to support even their innuendo of different signatures, have made statements as if they are handwriting experts, they also, with "smoke and mirrors", attributed some ill-will to the signing on different dates. They have achieved the ridiculous level.
9. EB Paragraph 49: Here the EB, in its paraphrasing of the cited testimony regarding David and Thomas Lewis, fails to present the whole record of David not trying to force Thomas Lewis to keep the subject license in his name. EB through innuendo trying to attribute ill-will to David were it clearly does not exist.
10. EB Paragraph 56 (Footnote 12): The EB in its characterization of the cited testimony regarding David's understanding about whether DLB can legally operate a station licensed to O.C. Brasher, conveniently left out that David testimony was talking about O. C. Brasher's estate.
11. EB Paragraph 67 (Footnote 16): It is curious to note that the EB in this footnote argues in essence that David would not know DLB's business prior

to coming to work there, but in all their other arguments, they claim or insinuate that David knew all about DLB's business at all times even prior to going to work there. The EB mischaracterizes David's testimony (TR. 912-914) by saying he agreed with the Opposition. David's testimony clearly points out that he was new to DLB and did not have a full understanding of the licensing end of the business and basically left it and the Opposition up to Ron. Finally in the last sentence of this footnote, the EB places some twisted sinister meaning on David's truthful testimony to questions asked about what Ron told him about the Sumpters' request that stations be turned off.

12. EB's Paragraph 72: Whether or not Net Wave in its petition presumed that D.L. Brasher was Diane is neither material nor relevant to the issues at hand. The EB further erroneously twisted testimony to argue that David did not see any problem with Ron not addressing in the Opposition, Net Wave's erroneous presumption. In actuality David's testimony was that he left the Opposition up to Ron. In footnote 17, the EB once again makes statements as if they are handwriting experts without record evidence to support their claim of disguised handwriting, only more innuendo and "smoke and mirrors". David's testimony about signing management agreements were made in the context of trusting his father, Ron, about the need to do so. David's testimony is clear that he only researched and found documents for Ron that were ultimately placed in EB's Exhibit 19 and left content of the first eleven (11) pages of said Exhibit up to Ron. (TR. 925-926)

13. EB's Paragraph 73: It is undisputed that Ron and DLB's attorney's handled all filing with the Federal Communications Commission ("FCC") in the enforcement action. David was handling the day to day business not the Opposition nor the enforcement action. David gave a very understandable and rationale explanation from his layman's viewpoint as to what frame of mind he was in when he answered the EB's Request for Admissions without talking with counsel.
14. EB's Paragraph 74: I couldn't agree more that David's responses to EB's Requests for Admissions should be considered in light of his role at DLB. Prior to April 1997 he was not involved with DLB's business. After going to work there and through the hearing of this case he was not involved in DLB's licensing business that was Ron's role even after retirement. Again, David gave a very reasonable and understandable explanation for his frame of mind when answering the EB's Requests for Admissions without benefit of counsel. In David's role of running the day-to-day business he is only concerned with frequency numbers not names assigned to them.

### III.

#### **REPLY TO CERTAIN EB'S PROPOSED CONCLUSIONS**

15. EB's Paragraph 77: It would be clearly erroneous to conclude that David and/or Diane Brasher filed applications in the names of surrogates in light of the fact there is no record evidence to support same. Neither David nor Diane played a role in DLB's licensing side of the business, it was Ron's role.
16. EB's Paragraph 80: To conclude that David knew in 1996 that there was a



limit to the number of licenses that could be obtained at the same time by any one entity flies in the face of the record evidence. The EB has cited no record evidence that David knew or understood this in 1996.

17. EB's Paragraph 81: To conclude that David knew in 1996 that there was a limit to the number of licenses that could be obtained at the same time by any one entity flies in the face of the record evidence. The EB has cited no record evidence that David knew or understood this in 1996.
18. EB's Paragraph 84: This requested conclusion by the EB stretches all bounds of imagination. The EB has provided no record evidence that provides a nexus tying David to the O.C., Ruth and Sumpters 1996 applications. The record evidence is clearly to the contrary conclusion.
19. EB's Paragraph 85: Once again by this request the EB is stretching all bounds of imagination. The EB has provided no record evidence that provides a nexus tying Diane to the 1996 O.C., Ruth and Sumpters applications. The record evidence is clearly to the contrary conclusion.
20. EB's Paragraph: Here the EB attacks David's truthfulness in submissions and testimony without reasonable and rationale basis for same in the record evidence. Just because the EB does not believe him is not a sufficient reason for this Court to conclude he was deceptive.
21. EB's Paragraph 94 (Footnote 31): As noted earlier herein this is a mischaracterization of David's testimony by the EB.
22. EB's Paragraph 98: These general and sweeping accusations concerning David's truthfulness are, suffice it to say at this point, not supported by the

record evidence. The specific accusations have been addressed elsewhere herein.

23. EB's Paragraph 99: This request seems to say that since David and Diane are officers of DLB, that fact alone makes them guilty of misrepresentation and lack of candor. A very simplistic approach that is not supported by the record evidence.
24. EB's Paragraph 101: The accusations leveled again herein against David have been addressed elsewhere herein and are clearly "out in left field" and unsupported by the record evidence.
25. EB's Paragraph 106: The accusations leveled again herein against David has been addressed elsewhere herein and are clearly "out in left field" and unsupported by the record evidence.
26. EB's Paragraph 112: These accusations are nothing more than the EB's continued unsupportable character assassination of David that is contrary to the record evidence.
27. EB's Paragraph 113: The EB's request herein is the result of their completely irrational thought process that attributes ill-will to everything that David testified to and/or submitted to the EB. It also shows a complete lack of understanding of David's role at DLB during the relevant time periods. The specifics have been addressed elsewhere herein.
28. EB's Paragraph 114: The EB's request herein is the result of their completely irrational thought process that attributes ill-will to everything that David testified to and/or submitted to the EB. It also shows a complete lack of

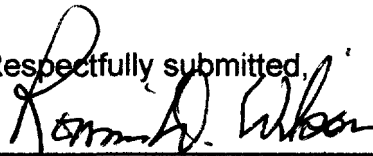
understanding of David's role at DLB during the relevant time periods. The specifics have been addressed elsewhere herein.

IV.

**CONCLUSION**

For the foregoing reasons, as well as for all the facts stated in David and Diane's Proposed Findings of Fact and Conclusions of Law the EB's requests must be denied and the issues before this Court in regard to David and Diane should be resolved in their favor.

Respectfully submitted,



RONNIE D. WILSON

Attorney for David & Diane Brasher  
100 N. Central Expressway, Suite 1211  
Chase Bank Building  
Richardson, Texas 75080  
Telephone: 972/699-0041  
Facsimile: 972/699-0064  
State Bar No. 21720000

DATED: November 29th, 2001

**CERTIFICATE OF SERVICE**

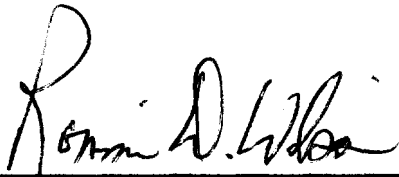
I, Ronnie D. Wilson, hereby certify that the original and copies of the foregoing Reply in Case No. 00-156 was served by Federal Express upon the below listed parties on this 29th day of November, 2001.

Ms. Judy Lancaster  
Mr. Bill Knowles-Kellett  
Federal Communications Commission  
Enforcement Bureau  
445 12<sup>th</sup> Street, S.W., Room 3B443  
Washington, D.C. 20554  
Via Federal Express #809927076814

**REPLY**

Mr. Michael Higgs  
Schwaninger & Associates  
1331 H Street, N.W., Suite 500  
Washington, D.C. 20005  
Via Federal Express #809928076825

Hon. Arthur I. Steinberg  
Administrative Law Judge  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room 1-C861  
Washington, D.C. 20554  
Via Federal Express #809928076836

A handwritten signature in cursive script, reading "Ronnie D. Wilson". The signature is written in dark ink and is positioned above a horizontal line.

---

Ronnie D. Wilson  
Attorney & Counselor at Law  
100 N. Central Expressway, Suite 1211  
Richardson, Texas 75080  
Telephone: 972/699-0041  
Facsimile: 972/699-0064  
State Bar No. 21720000

**REPLY**